PF 84 of 93

G. R. S. IX-5]

Previous references.

1893 94

~~192~~ .

(dR)

File No 147 of 93

Serial Nos. 1-7

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-7

Major ~~Part~~ B for January 1894

SUBJECT.

Appeal of Annaiah and Narasappa &c - regarding the Shanbhogi of Bannerughatta Bangalore Taluk

---

Countersigned

WD 2228 GPB -20,000 12-6-20

Interest

Claim

Posted for hearing
Notices of the above to both parties
8/9/93

R.A. No. 6 of 1892-93

(Appellants - 1. Annaya
(Defts) 2. Channappa

Respondent - Sattanaiah
(Plff.)

This is an appeal against the order of the Deputy Commissioner Bangalore District, regarding the Sarabagi office of Chick Bannavara and Jadamadanahalli village, Bangalore Taluk.

In January 1892, Plaintiff, Sattanaiah, filed a suit in the Deputy Commissioner's Court as follows: —

, That the Sarabagi of Chick Bannavara and Jadamadanahalli are hereditary to the Plaintiff

8/9/93

2 That the Plaintiff's mother were the Sarabagas of the village and that the father of the Plaintiff discharged the duties of the Sarabagas of the above two villages and died about 2 or 3 years ago.

3 That after the death of the Plaintiff's father, the Sarabagi of the above two villages was registered in Plaintiff's name and that as Plaintiff was a lady, contributions, viz. one Kuthuppa was performing the functions of the Sarabagas for the Plaintiff.

4 That as Kuthuppa fell ill in 1879, and as the Plaintiff was not in a condition to look after the duties of the Sarabagi, on account of his illness, the Plaintiff nominated

3

nominated the Defendant (1st) as Samabogue and got it Samabogue registered in his (Defts) name, as desired by him.

5 That the Defendant was nominated as Samabogue on condition that he should, as Samabogue, the Samabogue, when either of Nivishnappa or the Plaintiff received from either, and was on a condition to perform the duties of the Samabogue and that he should pay to Nivishnappa and the Plaintiff Rs 15/- annually, so long as the Defendant continued to be the Samabogue.

6. That the Defendant continued to pay Rs 15/- a year to Nivishnappa and the Plaintiff till the year Vikrama, when Nivishnappa died, and that after the death of Nivishnappa the Defendant paid ~~to~~ Rs 15/- to the Plaintiff only for two years and then ceased paying

7. That the Plaintiff removed from Illinois into or near year 19
and that though the Plaintiff sold the Defendant & get the Land register transferred to his name, the Called was only waiting time and did not give back the Land.

8 That the Plaintiff's Counsel (instant Cause) filed a Suit in the Town Magistrates Court, Bangalore, & got the Land of the above the village in the year 189.

Whereas the Defendant pleaded that he was the rightful Owner of the above the village and hence his Suit.

9 That the same Question arose in August or September 189. When the Defendant denied the title of the Plaintiff before the Town Magistrate

10. That the Land of the above the village should be ordered & the same back to the Plaintiff and his name registered as

Land Lagre.

Respectfully

6-1-92

The plaint was referred by the Deputy Commissioner to the Joint Magistrate.

The Defendant filed a written statement before the Joint Magistrate as follows: ——

1. The present Defendant is not the registered Landlord. Before the Plaintiff purchased the land, the Landlord was registered in one Ramasamy Nadar and he has been doing the duty.

2 When the Plaintiff and his brother Chinnappa were the Landlords of the village, they enjoyed Government money and when they were not able to receive the money Chinnappa forcibly by force, they borrowed the money from me and paid the amount to Government, then the registered

Answer received the Lancaster
on the 8th July 1879. The Summons
appointed the defendant to Lancaster
on the 30th July 1879. Save last date
the defendant did his own
doing the duty of the Lancaster on
Leeds and signing the Summons
attached to file

3 The Plaintiff has no right to
get back the Lancaster from
the [illegible]
to doing the suit against Lennard

4 The allegations in para 4 of
the Plaint are false & mere
paid to the year of the Plaintiff
as alleged in the Plaint.

5 The Suit is barred by limitation"

No. The 1st defendant's own [illegible]
was made an supplemental defendant
as his name was borne on the Register.

Plaintiff's Statement
Agreed to follow :—

Dane

7

"I am in Dublin. My name was registered. The Defendant took the office and his name to registered. In 1879 both myself and my brother were taken ill, and therefore got the office transferred to the Defendant as a temporary measure, but the time was not fixed for the undelivery of the office. The Defendant agreed to give me 2 candles of grain or £1 per annum. He gave it for the 1st year and then ceased to pay. I demanded the office from him but he refused to do so on the ground that he was the Registered. The Defendant did not execute any document to me, agreeing to give 2 candles of grain or £1 a year. I have recovered my health. I have no other means of livelihood & therefore seek recovery of the premises claimed to my eldest

refrain from the office of the Plaintiff, when the latter or his brother recovered his health. The 1st Defendant also agreed to pay to the Plaintiff Rs 15/- annually".

The 2nd witness stated " About 10 years ago, Hammanthi Sowda demanded from the Plaintiff certain debt. The Plaintiff said the 1st Defendant owed him money. × × × The 1st Defendant said that he would pay the Plaintiff Rs 15/- shortly".

... i. not in the Records.

The Defendant produced a receipt Exhibit I and examined one witness, who stated that he was present, when the 1st Defendant paid Rs 250/- to the Plaintiff, that he attested the receipt, and that the Plaintiff and his brother executed it.

The Assistant Commissioner, (Tom Ray, Esq.) decision was as follows: ——

" Exhibit I (receipt) shows that the Defendant paid Rs 250/- to the

the ~~Defendant~~ Plaintiff, previously
as consideration for the office"

"This Suit was instituted on the 6th
January 1892, that is, 12 years and
5 months after the transfer of the
office to the Defendant. . . I consider
that the Suit is barred as against
the Plaintiff, and not, as against
his legal successors."

"That the Defendants must be
considered as Executors of the Plaintiff
whose name should be ~~recorded~~ entered in
the Register i.e. in place of the 2nd Defendant" 27.7.92

The Defendants appealed to the
Deputy Commissioner, against
the above order on the following Grounds: —

1 That the Lower Court erred
in writing things which were —
unnecessary to the decision of the case

2 The Lower Court erred

remain. I hear that my great-grandfather and his great grandfather were brothers."

The following issues were framed in the case

1 Is the transfer of this farm to the Plaintiff & the Defendant permanent and final

2 Is the Deed barred

3 Did the Defendant give & give the Plaintiff annually 2 candies of grain or Rs 15/-

4 Did the Defendant fail to retain the agreement and the present suit thereof maintainable

5 To what relief is the Plaintiff entitled.

The Plaintiff examined two witnesses. The 1st witness stated-

* * * *

The Plaintiff got the office transferred to the Defendant. The Plaintiff was sick then. The 1st Defendant agreed to retransfer

6)

cred in transferring the Registry
of the Tamabogue has the name
of the Respondent.

The Deputy Commissioner's decision was

" The only point contested on appeal
is the ground remarked by the Lower
Court, that the Plaintiffs heirs are
not barred as the ground remark
does not bind any future decision
on that point, I see no reason
to order its removal from the
judgment"

19. 7. 92.

On June 1893 Ekkaramma addressed a petition to
Deputy Commissioner as follows :-

1. That the Petitioner's name
has not yet been entered
in the Register of the Tamabogue
as directed in the decree of the Lower Court.
2 That the petitioner has been cured
of the illness and is able to perform
the duties of the Tamabogue

and does

and does not require the execution
of a grant.

3 That orders must be issued directing
the delivery of the Sunabagu office
and all the papers connected with it,
to the Petitioner and the mutation of
the Petitioner's name in the Register.

The Deputy Commissioner directed 30.6.93
the Amildar of the Bangalore Taluk,
to cause the charge of the Sunabagu
office of the two villages to be handed over
to the Petitioner
as directed in the Judgment if the
Petitioner was fit for the work

The Amildar in reply stated
that Sekharamma was fit for the office
and that though the present Sunabagu
Ayacappa was directed by a
written notice on 24.7.93 that he
should handover the charge of the
Sunabagu office to the petitioner
and Gram though a written notice
according to section 25 of the Land
Revenue

1

Revenue Code no 9. 8. 93, was served
Respondent to
he (Varadappa) ~~was directed~~ given
charge of the office till the disposal
9. 8. 93 of the appeal preferred by him to
the Government.

The Chief Grounds of appeal were
are: ——

1 That the Deputy Commissioner
~~contrary to the decree in the regular~~
~~suit~~ has issued an order which is
ultra vires in as much as he has
no ~~power~~ jurisdiction to issue an
order contrary to the terms of the
decree already passed.

2 That the order of the Amildar,
that the appellants should give
over charge of the office to the
Respondent, in pursuance of the
order of the Deputy Commissioner
was also ultra vire.

3 That the order of the Deputy Com^r
and the proceedings of the
Amildar should be quashed.

The Deputy Commissioner in his report states "that the Order passed on the 30th June 1893 is illegal and was passed under a mistaken impression that the Plaintiff obtained the Decree absolute on the above suit"

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a

Civ. Case No 1. of 1892.

Plaintiffs - 1 Venkataramiah
2 Narasappa

vs

Defendants - 1 Sabbaramiah
2 Venkatramaiah
3 ~~Narayanappa~~ Krishnappa
3 Anniappa

The facts of the case are as follow.

Krishnappa was the registered Sanabogue of Chick Banavara and Jadavanahalli villages in the Bangalore Taluk. Krishnappa got the name registered in the name of Sabbaramiah who was his uncle's son. In the year 1879, both Krishnappa and Sabbaramiah presented a petition to the Amildar, Bangalore Taluk, the Stating that as both were only and unfit for the office, the Sanabogui might be registered in the name of ~~Narayanappa~~ Anniah.

Amniah who was then Zamathi.

Both the petitioners appeared before the Amildar and gave a description of the above affair. The Amildar reported this to the Deputy Commissioner and he latter ordered Amniah's name to be registered as Samabagee.

On 13th December 1859 Venkatasubbiah (Exp G) addressed a petition to the Amildar stating that Sattanniah and Krishnappa resigned the hak of the Samabagee office in favour of Amniah, without informing the same to the petitioners, that he was asked to hand over the papers to Amniah, that he held the office till yesterday, that he was the hakdar for the office and that orders might be issued allowing him to do the duties of the office

The Amildar gave him an

GOVERNMENT OF MYSORE

an endorsement to the effect that as his name was not in the Register, he could not be permitted to hold the office and that he were to present a petition stating his right for the office with proper authorities, his case would be enquired into and decision given separately.

On 6th January 96 Venkatasubbi and Narasappa (1+2 Defts) presented a petition to the Deputy Commissioner urging that Ammiah was not the "gnathi" of Krishnappa and Seetammiah, as stated by them, that they were under the impression that a Gnathi would be given the hackdars for the office, before registering the name of Ammiah, as Sarabogas, that they were the only hackdars for the office and that the office

should be registered in the name of either of the petitioners.

Post the petition was rejected by the Deputy Commissioner as it was not forwarded through the Amildar.

The petitioners then filed the following plaint in the Court of the Deputy Commissioner

1. The plaintiffs are the hakdars for the Sawadagi of Jack Sandan and Cheek Banavara.

2. In July 1879 the 1st Defendant and the 2nd Defendant's husband Shivalingappa deposed before the Amildar that they were not fit to hold the office as they were lady.

3. The 1st Defendant and the 2nd Defendant's husband falsely stated before the Amildar in 1879 that the 3rd Defendant was the "guardian" of the Defendants and the Plffs

when

in favour of the 3rd Defendant,
that he was forced to give the
statement by the Amildar that
the 3rd Defendant was ~~not~~ his
"gnathi", that he did not intend
to make over the right to the
3rd Defendant and that he
might be reappointed to the
office.

The 2nd Defendant was exparte

The 3rd Defendant stated that the
genealogical tree produced by
the Plaintiffs was a fabricated
one, that the Plaintiffs had no
right to the office in question, that
the 1st Defendant and 2nd Defendant's
husband resigned the office in 1879,
that the Government appointed
him Sarabogue, that he availed
himself of the assistance of the
1st Plaintiff for 2 or 3 years
in the preparation of the village

village accounts that he has not since required his help as his son was fit for the work and that the Plaintiffs were set up by others to file this malicious suit ——.

On 14th May 1890, Annual depos before the Amildar, as follows—

The Sanabogui office of Jacksandra and Check Banavara is not —— hereditary one. Krishnappa and Seetaramiah are for the Nakdar for the office. They misappropriate Government money during the famine of Dhath and Sowara. They asked me to give Rs 250/- the amount misappropriated by them, and in return they promised to get the Sanabogui registered in my name. They have executed a document in my favour. Seetaramiah and Krishnappa are not my "gnathis"

when he did not belong to their family/crew.

4 The 1st Plaintiff held the office from the year 1879 till December 1889.

5 The 3rd Defendant advised the Plaintiffs to vacate the office to him; On their refusal of the latter, the former preferred a petition to the Amildar; The then Amildar Sethuramier, ordered without enquiry, that the Duplicate should be handed over to the 3rd Defendant

6 The 3rd Defendant had deposed before the Amildar that he is not the "Gnathi" of the Plaintiffs and the Defendants.

7 Hence Plaintiffs are the only Gnathis for the office.

The 1st Defendant pleaded that he was the registered Sambrogue; that he was sane and healthy when he resigned the office

Venkatsubbiah and his brother
Narasappa are my elder sisters
sons. I used to get the village accounts
written by Venkatsubbiah. I
was looking after the other duties,
Venkatasubbiah has written the
Samabagai accounts till December 1889.
I was paying him for the above
work and but the payment was
not fixed. I have signed all
the accounts written by him

* * * * *

The Assistant Commissioner
(Mr Raymond Rice, before whom
the case was referred for disposal,
decided that as neither the Plaintiff's
father nor grand-father held
the office and as the Plaintiff
and the 1st Defendant are
distant cousins, the Plaintiff
had a remote reversionary right
to succeed the 1st Defendant
and that they had no right for the
office during the life time of the 1st Defendant.

Pehn 103 of 94-95

Pehn
Subramaniah
& Mr Bhima Rau.

24

The facts of the case are contained in Govt decision in appeal 6 of 93-94 (put up herewith)

Subsequent to the decision, Annayya (defe) moved the Asst Commr to amend his decree. The Asst Commr amended his decree thus:-

"Under Govt order in R.A. 6 of 94 and under Sec 206 of C.P.C, the decree passed in the aforesaid suit is amended as follows:-

"The Plaintiff's suit is dismissed."

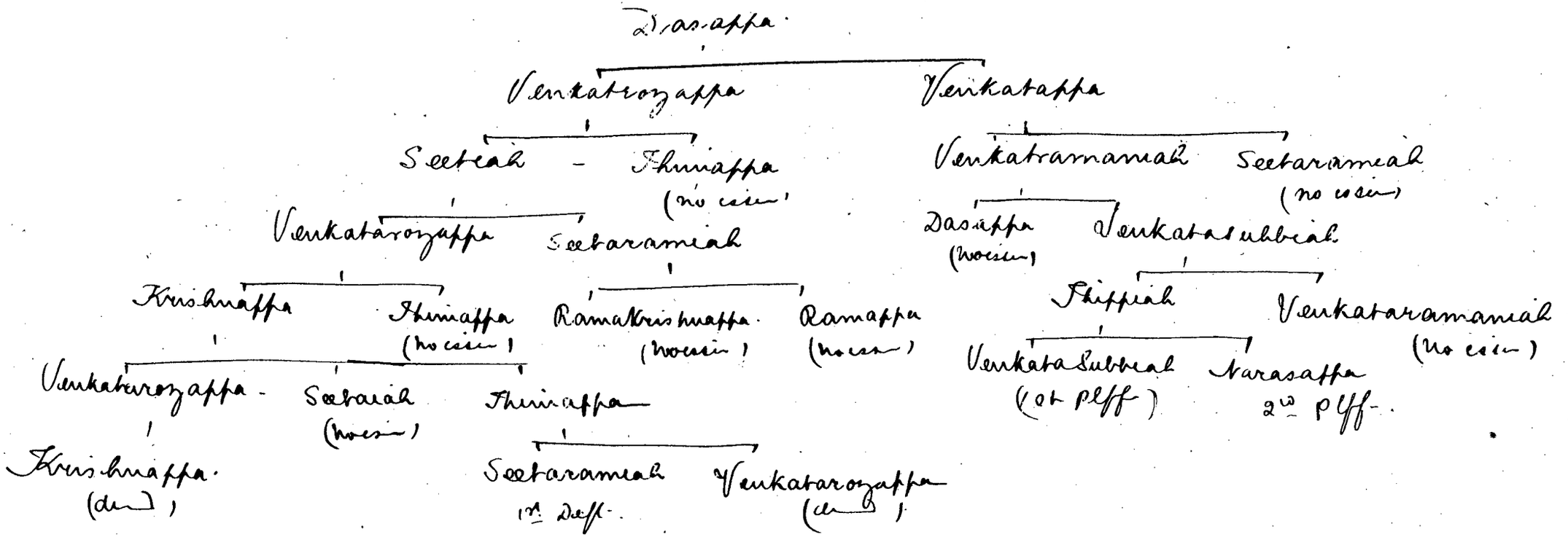
On appeal against this order, the Dy Commr held that no mistake was

Committed in the office of the Asst Commr and that there was no necessity for him to amend his decree. He said that his decree did not agree with his judgment and that he ought to amend the decree. He reversed the Asst Comm's order.

Subsequently the Defts moved the Dy Commr to bring his decree into Conformity with the Judgment and the Dy Commr passed the order which has been appealed against.

CJ

Genealogical tree produced by the Plaintiffs.



Exhibit

9/4

M no 6 of 1893-4

Apte

1 Annah

2 Narsappa
son of 1st

of Wanaparthy
Mangalavelly

Respt

Sitaramaiah

Respt who was the Srambhog of Wanaparthy
represented that on he was sick & his brother
was sick the office might be registered in the names
of the 1st appellant & her Kulamaru. The request was complied
with & the Dy Com sanctioned the appointment
of 1st appellant on 29th July 1879.

Respt brought a suit for the office on 6th
9th July 1892 on the ground that the office was
transferred to 1st Apte on the condition of her
vacating the office when required, meanwhile
paying Respt Apte 15 Rs a year. The Asst Com
who heard the case found that there was
no such agreement as stated by Respt but as the transfer
of the office was against the

28

the Plaintiff (now Respt) has not as against the legal Successors. — In the course of the case" he added, that Depts (now appts) should be treated as Guardians of the Plaintiff (now Respt) whose names should be registered in the Regr in the place of 2d Defts (2d appts). — The Decree was to the effect that Respts should be registered as Shareholders, & the 1st appellant as her Guardian.

An appeal was preferred against this Decree to the Dy Court when

by the 1st appts

dismissed the
appeal. And the
appeal was preferred
before a Court.

But an
order having been passed
in execution of the
decree for the transfer
of the office to the
Respt, the appellants
new appeal, contended
that the original decree
did not contemplate
the transfer of the office
to the Respt & that he
should not thus be
turned out of office.

Held that having produced the register of her removal

You are of opinion
that the decree passed
by the Court is inconsistent
with the judgement.
If the fact was inadmissible,
as against the Plaintiff
(Respt) it stands hence

claims of the
Respts reversioners
the 1st Appt cannot
be treated as a grantee
of the Respts & accordingly
decreed in his (Respts)
favour. ~~The decision~~
was confirmed by
the Privy Council in appeal
on the 19th Feby 1892. No
appeal was required on this.
No direct appeal
or against the execution
order issued
~~The Judgment & Decree~~
~~on petition~~
In passing the
judgment, the arbitrator
remarked that the transfer
of office having taken
place in July 1879 the
deed having been brought
in Jan 1892, the deed was
debarred on. against

been simply dismissed, but noticed if that he was ordered to be registered as Shankhoja & the appl as his guru etc. — ~~that~~ ~~there~~ however there is no appeal against the original Decree & Govt, it is impossible for Govt to interfere at this stage of the proceedings. The only remedy is for appellant to seek for a modification of the Decree on the ground that it is not in accordance with the judgment. The appeal is dismissed. —

Rud C

It is informed that the appeal has been dismissed — if he considers that the original Decree is not consistent with the judgment, he should seek for a modification of the Decree as laid down by Law.

20/11/46

(General Serial No. 32.)

1893.

(2)

No. 117-93-1

Name of Petitioner. Sivaramia and Narasayya

Village.

Taluk. Bangalore

District.

Date of Arzi. 29 Aug 93

Date of Receipt. 31 Jan 94

Date of Disposal.

No. of Enclosures. Five.

ABSTRACT.

Appeal against order in the dispute between Bangalore Cantonment Rate Case No. 43 of 1893 for the Saranu Year 1893 for the Saranu Year in the Bangalore

Plaintiff appellant

Appellant in person

Respondent denies the letter of the 2nd April received to effect of Shamiah of Sonavar in 1892 in collecting transfer from the village Sivaramia, in payment of a consideration of Rs. 25.

In 1892 Sivaramia had to recover the fine on the ground that the transfer was temporary, but the appellant alleged that the transfer was permanent & the suit was carried. The lower Court held that the transfer did not affect the rights of Sivaramia Rao and appellant to the sum of Rs. 25 the right of reversion, which that the Pltff Sivaramia name should be restored to the Register and that defendt (present Appellant) be cleared as Samadar. The right (Petitioner) appealed to the Dist Court against the appellate Commr's decision that the Pltff's heirs were not barred but the Dist Court in his Judgment dated 19 Sept 1892 observed that the counsel [illegible] of the appellate Commr would not find any decision on the point & dismissed the appeal. Subsequently on the Petn of Sivaramia the Dist Court moved the Amildar on 30 June 1893, to cause possession of the office to be given to the Petitioner if he was found competent and the Amildar reported, on 21 July 1893, that as Seshanna was competent, appellant should give over charge to him. The collector

case appealed from this order.

The stay must be for such
time as may be fixed in this case
pending appeal of this appeal
to the next [illegible]

1893

Call for the
Records of the
Case
ucl
8/8/93

Pet
278

MYSORE DEWAN'S OFFICE, 12/87

PETITION DEPARTMENT. (3)

OFFICIAL MEMORANDUM.

The accompanying Petition No. 273 as 6
dated 20th April 93 received at the
Dewan's Office from Arulappa and
Venkappa, Bangalore, appealing
against the Bangalore Deputy
Commr's order in Rev. Proc. No.
643 of 1892-3, directing the appellants
to hand over charge of the Chamarajpet
Fire Division to the Incumbent
Subbarayappa
is forwarded, together with its four
enclosures, to the Deputy Commissioner
Bangalore with a request
that he will submit for
submission to Government proceedings
with a report on the facts of the
case and on the grounds taken
in the petition.

The Petition with enclosures
should be returned.

By Order,

(Rev. Council's order)

15/17 BANGALORE, 7th August 1893

Chief Secretary.

M. G. C. P. Bangalore.—21-11-92—3,000.

From the Commr No 330 of 8-9-93.

(General Serial No. 30.)

3499
12 SEP 93
Pt 6170

189 .

From The Commissioner
Bangalore District

5

LR 117-93-3

To

The Chief Secretary to the Dewan
of Mysore.

Dated 8th September 1893

Despatched 11th Do

Received

Enclosures No. 4 files

General No.

No. 330

The Chief Secretary's
No 2758 dated the 15th
forwarding for sub-
mission a record,
application & memoranda
and declaration, re-
garding the Khan-
dige charge of
Bannimar Bangalore
taluq

In returning the
enclosures of the above
letter I submit the
entire record of the
case. When the petitioned
was argued before the

1. Revenue case No
2 of 1892-93 from
Assistant Com.
1 appeal case No 2
of 1892-93 on the
file of the Dy
Commissioner

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. N. 273 R
DATE 31-7-93

COURT FEE STAMP
TWO RUPEES

Two Rs Stamp

(1)

Before the Government of Mysore

Rev. Dis: appeal case no

A.S. No 6
93-94

Appellants — Respondent
1. Ameeriya — Litaramaya
2. Narsabba

The appts above named beg to appeal against the Order of the Dy Commissioner of Bangalore in Rev Dis: Case No 1643 & 30th June 1893 for the following reasons:

1. That the respondent filed his suit in Rev: Case No 2 of 1890-92 on the file of the Assistant Comr, Bangalore, for the recovery of the Shanbogueship and that his suit was dismissed with regard to that portion of the prayer viz: the recovery of the office.

2. That the appellants appeal against the judgment in Rev A.S No 2 of 1892-93 with the result that the decision of the Lower Court was confirmed.

3. That the Deputy Commissioner

the undersigned, the only
point contested could,
whether the
decision of the Lower
Court could decide
the claims & counterclaims.
The undersigned held
that it could not, and
both parties were
eventually satisfied with
that order. Subsequently
the Plaintiff returned
the undersigned's name, registered
and the office restored
and the undersigned
proceeded to the
30th June 93 which,
as contended by the
Appellants, is ultra
vires and transpired
under a mistaken
impression, that the
Plaintiff obtained the
land, absolutely, in
the above suit.

J. Mannock
for Commissioner

Wms

on the Dis: Side, contary to the decree in the regular Suit, has issued order No 1643 of 30th June 1893

4. That the Amildar of Bangalore has made the report of 21st July 1893 to the effect that the applicants should give over charge of the office to the respondent.

5. That the applicants submit that the order of the Dy: Comr No 1643 of 30th June 1893 is ultra-vires inasmuch as he has no jurisdiction to issue an order contrary to the terms of the decree passed in the regular Suit.

6. That the report of the Amildar of 21st July 1893 in furtherance of the order No 1643 is also ultra-vires

7. That the applicants pray that the order of the Dy Comr No 1643 of 30th June 1893 and the subsequent proceedings of the Amildar may be quashed.

8. That the applicants pray that pending the disposal of this petition the lower Courts may be directed not to compel the applicants to give over charge of the Shanbogue office in furtherance of the Dis: proceedings appealed against.

Bangalore
29th July 93

D Venkatarama Iyer
Advocate

(5)

To

Re ~~Land Inspector~~ Deputy Commissioner

Bangalore

LR 117-93/4

Dated 24th/28 Nov 1893

No 8549 / Pet 794

Has the honour to request that the records in Revenue Case No. 1892 on the file of ~~the Court of~~ the Deputy Commissioner at Hassan may be forwarded to this office in reference to A.S. No 6 / 1893-94.

27/11

Under Sec.

Dy Sec.

(General Serial No. 30.)

9721
14 DEC. 93
Pet 346

189

From The Dy Commissioner
Bangalore District

To The Chief Secretary to the Govt
of Mysore

LR 117-93-5

Dated 13
Despatched } December 93
Received

Enclosures No. Records

General No.
D No. 658

As called for in the Chief Secretary's No 5549 dated 24/11
ultimo, I beg to submit the records in Revenue case
No 1 of 1892 on the file of the Assistant Commissioner
and City Magistrate Bangalore.

for dy Commissioner

Rte
Rte Branch
14/12

In the Court of the Lower Magistrate 1st Class
Comm. Bangalore District

Plaintiff
Sectaramaiah

Defendant
Annaiah

49

Judgment

This suit is in reference of Dec. I of 1892 on the file of this Court which has been disposed of today. The Plaintiff who resigned the office of Shanbogue of Bannavar and delivered in favor of the Defendant in 1879, seeks to recover the possession of the office now, on the ground that the transfer of the office to the Defendant was a temporary measure, that he is fit now to discharge the duties and that the Defendant broke the contract entered into with him to pay him annually 2 candies of grain and hence the cause of action.

2. The Defendant's son Narasappa was made a supplementary Defendant as his name was borne in the Register.

3. The 1st Defendant filed a written statement pleading that his son was the Registered, that the Plaintiff and his late brother misappropriated Government money that on payment of that amount by him (Defendant) his name was registered as Shanbogue in 1879, that he & his son have been enjoying the office and that he never agreed to pay to the Plaintiff 2 candies of grain as he is claiming. He also added

that the suit was barred by limitation
The 2d defendants pleas were the same as
those of his father.

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4. Issues

I Is the transfer of office from the Plaintiff to the defendant permanent and final

II Is the suit barred.

III Did the defendant agree to give the Plaintiff annually 2 candies of grain or Rs 15.

IV Did the defendant fail to act up to the agreement and is the present suit therefore maintainable

V To what relief is the Plaintiff entitled.

5. The following witness were examined for Plaintiff

1. Kambeda Ramachar
2 Kalyanappa

6 The defendant produced receipt Exs 2 and examined the following witness.

1. Basappa.

7. The evidence in suit No I/72 on the file of this Court governs this case also.

8. The Plaintiff was unfit to perform the duties by sickness and lameness. He therefore resigned his office in favor of the defendant. This arrangement was approved of by the Deputy Commissioner on the 29th July 1971. Exhibit No 1 shows that the defendant

paid Rs 250 to the Plaintiff privately as consideration for the transfer of office I decide the 1st issue against the Plaintiff

9. This suit was instituted on the 6th January 1932 i.e. 12 years & 5 months after the transfer of the office to the defendant that the 2nd defendant's name was registered a year after the transaction gives no fresh cause for the Plaintiff to sue. I consider that the suit is barred as against the Plaintiff, but not against his legal successors, if any.

10. There is no documentary evidence to prove the alleged agreement, and I do not believe the oral evidence on the point. Such agreement, even if entered into is illegal when the Plaintiff consented to have the defendant's name borne in the Register. This shows that he has no hold on the office. The Plaintiff cannot be permitted to take advantage of his own deliberate act to the prejudice of the defendant. The transfer was however against the rights of the Plaintiff's reversioners. In this view of the case, I consider that the defendants must be treated as trustees of the Plaintiff whose name should be restored in the Register in the place of the 2nd defendant as directed in the Plaint case

Before the Government of His Highness
Maharajah of Mysore

A 4

Appeal No 6 of 1893-94

Appellants
1. Annaiah
2. Ramsabba, son
of 1st appellant
of Bannavar, Bangalore
Taluk

Respondent
Sitaram

LR 117-93 6

Decision dated 22nd January
1894

In 1879 Respondent who was
Shanbog of Bannavar requested
that, as he was lame and
his brother was sick, the Office
might be registered in the
name of the 1st appellant,
his kinsman. The request
was complied with, and the
Deputy Commissioner sanctioned
the appointment of 1st appellant
on 29th July 1879.

2. Respondent brought
a suit for the Office on 9th
January 1892, on the ground
that the Office was transferred
to 1st appellant on the

January 1892
date of Mr. Madhava Rao's
Complaint)

condition of his vacating
the Office when required,
meanwhile paying (~~the~~
~~appellant~~ Rent) 15 Rs a year. The
Apistant Commissioner who
heard the case found that there
was no such agreement
as that set forth by Respondent,
but as the transfer of the
Office was against the claims
of the Respondents' reversioners,
the 1st appellant could only
be treated as a gumasta
of the Respondent, and accordingly
decreed in his (Respondents')
favor.

Respt

3. In passing the judgment,
the Apistant Commissioner
remarked that the transfer
of Office having taken place
in July 1879, and the suit
having been brought by
~~July~~ January 1892, the suit was
barred as against the
Plaintiff (now Respondent),

January

11. There will be a decree to have the name of the Plaintiff restored in the register and the 2d Defendant's name will be shown in the register as his grantee. Each party to bear his own cost.

27th June 1893. (Sd) Rae Innes Chief Commr

Copy

Original Judgment of the Court Magistrate

but not as against his legal successors. "In this view of the case", he added, that Defendants (now appellants) should be treated as grandsons of the Plaintiff (now Respondent) whose name should be recorded in the register in the place of 2nd Defendant (2nd appellant). The Decree was to the effect that Respondent should be registered as Chumbanga, and the 2nd appellant as his grandson.

2nd

4. An appeal was preferred by the both appellants against this Decree to the Deputy Commissioner who dismissed the appeal. The appeal was preferred thereafter to Government.

5. But an order having been passed in execution

2nd 49

—— registered as Chamberlay and the 2nd appellant as his gumasta. As however there is no appeal against the original decree to Government, it is impossible for Government to interfere and correct the error at this stage of the proceeding the only remedy for appellant is to seek for a modification of the Decree on the ground that it is not in accordance with the judgment.

The appeal is dismissed

ucl
29/1/94

By order

Chief Secretary

Redraft
No. 12860
P.P. 86-93. & 30-1-94 / 6-2-94

Copy to the Deputy Commissioner Bangalore District with the records received with his Nos. 330 & 658 dated 8th Sept & 13th Dec. 93.

By order

Chief Secretary

as copy sent.
ucl 6/2/94.

Print 22

of the decree for the transfer of the office to the Respondent, the appellants non-appeal, and contended that the original decree did not contemplate the transfer of the office to the Respondent, but only protected the right of his reversioners and that they should not therefore be turned out of office.

6. Government are of opinion that the decree passed by the Commissioner is inconsistent with the judgment. If the suit was inadmissible, it against the Plaintiffs (Respondents). it should have been simply dismissed, but instead of that he was ordered to be registered

No. 273
as 6

MYSORE DEWAN'S OFFICE,
PETITION DEPARTMENT,
30th January 1894

Endorsement granted to Annaji and Narayana of Bannur, Bangalore Talk

in reply to their Petition Registered No. 273 as 6 dated 2nd July 93 appealing against the Dy: Commrs order dated 30th June 1893 regarding the Mantrapu of Bannur

Petitioner is informed that their appeal has been dismissed. If they consider that the original decree is not consistent with the judgement, they should sue for a modification of the decree as laid down by Court

2 Mr. Rice are returned

Redraft

"By Order"

Chief Secretary.

Mysore Govt. Central Press, 9-2-93—2000.